

# CITY OF SEDONA, ARIZONA

## COUNCIL AGENDA COMMUNICATION

<b>MEETING DATE:</b> January 12, 2010 <b>AGENDA ITEM:</b> 8 <b>TIME TO PRESENT:</b> 15 minutes	<b>SUBJECT: PUBLIC HEARING:</b> Discussion/possible action on a resolution and ordinance regarding proposed amendments to the Sedona Land Development Code allowing for the long-term rental of accessory dwelling units amending Article 2 (Definitions), Article 6 (District Regulations), and Article 9 (Development Standards) and related amendments to the Sedona City Code amending Article 8 (Business Regulations) and Article 13 (Wastewater). <b>DEPARTMENT:</b> Community Development
<b>ACTION REQUIRED:</b> <input checked="" type="checkbox"/> <b>Ordinance</b> <input checked="" type="checkbox"/> <b>Resolution</b> <input checked="" type="checkbox"/> <b>Motion</b> <input type="checkbox"/> <b>Information</b>	<b>BOARD/COMMISSION RECOMMENDATION:</b> <input checked="" type="checkbox"/> <b>Approval</b> Planning and Zoning Commission and Housing Commission <input type="checkbox"/> <b>Denial</b> <input type="checkbox"/> <b>None Forwarded</b>

**Project/issue relates to Strategic Goals and Priorities \_\_\_\_ or Community Plan x or Not Applicable \_\_\_\_.**

The Sedona Community Plan's Housing Element:

6.2.1 Housing Vision: "Provide equal opportunity choices for shelter, well insulated from high volume roadways, aviation and other noise, and non-residential land uses. Housing should foster a sense of neighborhood among nearby residents and a sense of community through linkages with surrounding neighborhoods."

Goal #2: "Ensure a variety of housing opportunities for all."

Object #2.2: "Evaluate opportunities to provide for accessory housing units in residential areas."

6.2.2 Specific Recommendations: "...An evaluation of opportunities to allow guest rooms or detached guest houses to operate as independent housing units could also help address housing needs for Sedona's older residents."

**ISSUE:** This agenda item provides for a public hearing and discussion/possible action regarding amendments to the Land Development Code and amendments to the Sedona City to create an accessory dwelling unit (ADU) ordinance to allow for the long-term rental of ADUs.

**BACKGROUND:** With the formation of the Sedona Housing Commission, the City Council directed the Commission to identify possible strategies to address the creation, maintenance and preservation of affordable housing in Sedona. Since its inception the Housing Commission has researched and evaluated how resort and other communities across the country address affordable housing needs. This research indicates that providing for the long-term rental of ADUs is one way that is effective in meeting affordable housing objectives with little negative impact to neighborhoods and city budgets.

In 2007, the Housing Commission, working with the Planning and Zoning Commission, and staff began drafting an amendment to Sedona's Land Development Code that would allow for the long-term rental of ADUs.

Generally, ADUs are independent units that can be created within, attached to or detached from a single-family home. An ADU can provide supplementary housing that can be integrated into existing single-family neighborhoods to provide a typically lower priced housing alternative. ADUs can provide homeowners with a means of obtaining, through tenants, in the ADU or the primary unit, rental income, companionship, security and services.

Typically ADUs are:

- Smaller in size to the primary home
- Similar in appearance to the primary home
- A permitted use in single-family residential zoning districts (note: Homeowners Associations (HOA) covenants may restrict or prohibit ADUs)
- Rented for income purposes
- Complete living units with provisions for living, sleeping, cooking, eating and sanitation

The proposed ADU ordinance addresses:

- Application requirements and the permitting process
- Conditions of approval
- Property owner occupancy requirements
- Occupancy requirements including total number of unrelated people that can reside on the property (primary dwelling unit and ADU)
- Prohibits less than 90 day rentals
- Prohibits ADUs from being used as short-term vacation rentals
- Minimum and maximum size requirements
- Height requirements
- Appearance
- Location
- Off-street parking requirements
- Enforcement
- Fees
- Existing illegal accessory units
- Exercise of discretion
- Report to Council
- Growth cap
- Sunset clause

Existing model ordinances and other community's code requirements were used as a foundation for drafting the ADU proposal. The first draft was made available in January 2008. This draft has been further refined based on comments received from extensive public outreach efforts, as well as Housing Commission, Planning and Zoning Commission and staff input. Over 30 public meetings and outreach opportunities were provided in 2008. During this process the City received comments both in support of and in opposition to the ADU concept. Many of the comments received in opposition included concerns about enforcement, a decrease in property values, parking and traffic issues, increased density, increased crime, impacts that could negatively affect the neighborhood character, short-term vacation rentals and noise and other nuisance related issues. Additionally, some citizens believed that the proposal was not restrictive enough and did not do a good job protecting existing neighborhoods.

Based on these comments and concerns, staff revised the proposal and submitted a more restrictive draft in the Spring of 2009. The City again conducted an extensive public outreach effort that included over 25 public meetings and opportunities for input. Additionally, the City advertised for volunteers to serve on focus groups to review, evaluate and provide feedback on the 2009 draft version. The City received over 50 applications to participate in this effort that resulted in a total of eight focus groups.

The revised 2009 draft continued to generate support as well as opposition to the ADU concept and affordable housing in general. Citizen opposition continued to center around crime, property values, parking, and enforcement. However, new concerns were being expressed that the revised draft was cost prohibitive and overly restrictive. Several of the organizations and citizens who in the past supported the ADU proposal indicated that they could no longer support the draft for these two reasons. Citizens and Housing and Planning and Zoning Commissioners also shared similar concerns specifically, as revised, that the draft did not support the overall purpose of an ADU ordinance and acted more as a disincentive because of its restrictive nature and high fees.

Based on this input, the 2009 draft was once again revised to address the concerns that the requirements were too restrictive and cost prohibitive. Due to the vast number of comments received during the 2009 outreach process, staff prepared summaries of the comments received through the various venues. These summaries are provided in the attached Synopsis of Comments received during 2009 outreach process. Staff's report dated December 1, 2009 to the Planning and Zoning Commission highlights in greater detail how the proposed draft was revised to address, where possible, the issues and concerns raised (see attached Staff Report to the Planning and Zoning Commission regarding proposed ADU).

An area of on-going concern is enforcement. Some citizens feel that the City currently does not do a good job in enforcing its current codes and for this reason lack confidence in the City's ability to satisfactorily enforce the ADU proposal. Others feel that the ADU concept in general is not enforceable.

Staff believes that the proposed ordinance is enforceable and that current resources are available to provide enforcement of the ADU ordinance. The ADU ordinance, if approved, would be subject to all enforcement provisions as outlined in Article 14 (Enforcement) of the Sedona Land Development Code as well as the provisions outlined in Section 1–8 of the Sedona City Code. These enforcement provisions are comprehensive and provide for penalties, citations, injunctions, remedies, etc. Currently, the City has two staff members whose functions include code enforcement activities. Sedona's code enforcement program, like other cities around the nation, focuses primarily on responding to complaints received. However, through City Council or City Manager direction, code enforcement practices can be proactive. Currently, the City is proactively enforcing short-term vacation rentals, signage and outdoor lighting. The City Council can direct staff to be more proactive in enforcing the illegal rental of guest homes as well.

In the past three years, the City has received 15 complaints regarding possible illegal rental of guest homes or similar accessory units. All complaints have been investigated. Some proved not to be in violation of our codes and those that were in violation were brought into compliance through voluntary measures.

Additionally, the Planning and Zoning Commission in their motion to recommend to City Council approval of the ADU ordinance suggested that Council direct staff to be more proactive in enforcement activities for existing illegal rentals at the end of the 12 month grace period.

On December 1, 2009 the Planning and Zoning Commission unanimously moved to recommend to City Council approval of the ADU proposal. On December 7, 2009 the Housing Commission unanimously moved to support the Planning and Zoning Commission's motion recommending approval of the draft ADU ordinance.

**COMMISSION RECOMMENDATION(S):** The Planning and Zoning Commission and the Housing Commission both unanimously recommend approval of the ADU ordinance.

**FINANCIAL PERSPECTIVE:** The proposal establishes fees for ADU permits.

- ADUs would be subject to all building permit and inspection fees.
- ADUs would be assessed a sewer capacity fee of ½ an ERU (equivalent residential unit). This recommendation is based on the possibility that an addition of an ADU may increase the amount of wastewater the property generates due to such factors as additional washing machines and dishwashers, although the number of people allowed by the definition of "family" does not change. This fee requires amending Section 13-5 (Connections to Wastewater System) of the Sedona City Code.
- Development impact fees would not be applied. This recommendation is based on the fact that the proposed regulations do not change existing land use requirements. All requirements stay the same including the number of people allowed, lot coverage, building height and setback requirements, except that an ADU may be rented. This exemption requires amending Section 8-3 (Development Impact Fees) of the Sedona City Code.

## **PROS & CONS:**

### Pros:

- ADUs can help increase affordable housing opportunities by providing an increased number of rental units.
- ADUs can help new homebuyers to qualify for mortgage loans and help offset mortgage payments.
- ADUs provide housing to family members or others needing assistance in daily living while allowing them to maintain their independence.
- ADUs provide opportunities to preserve older housing stock with an ability to receive rental income.
- Other communities indicate little to no negative impact to neighborhoods.
- ADUs have little to no negative impact on the City's budget.
- ADUs use existing public infrastructure and help reduce sprawl.

### Cons:

- Some homeowner associations do not allow the rental of an accessory unit.
- Some citizens have voiced a variety of concerns that ADUs will have a negative impact on their neighborhood. These concerns include enforcement, increased density, changes in neighborhood character, increased traffic and parking issues, increased crime and noise, and decreased property values.

**INTERNAL PROCESS PERSPECTIVE:** An ADU application will be used to process requests. Staff will track the number of requests received, the number approved, the location of the ADU and other information necessary to submit an annual report to Council and a final report at the time the ordinance sunsets. Enforcement staff will investigate complaints received and where necessary take appropriate action.

**CITY ATTORNEY APPROVAL:** [reviewed 12/28/09 RCR]

**CITY MANAGER RECOMMENDATION:** The proposed ADU Ordinance has been through an extensive public involvement process and has been revised to reflect many of the concerns expressed by the public. Both the Planning and Zoning Commission and the Housing Commission have unanimously recommended approval of the Ordinance. The City manager recommends approval of both the Ordinance and Resolution.

**FINANCIAL SERVICES APPROVAL:**

**MOTION(S):**

I move to approve Resolution 2010-\_\_\_\_\_ creating a public record setting forth proposed changes to the Sedona City Code and Sedona Land Development Code related to accessory dwelling units.

*After First Reading:*

I move to approve Ordinance 2010-\_\_\_\_\_ implementing proposed changes to the Sedona City Code and Sedona Land Development Code concerning accessory dwelling units.

I move to deny approval of Resolution 2010-\_\_\_\_\_.

I move to deny approval of Ordinance 2010-\_\_\_\_\_.

**ATTACHMENTS:**

- Ordinance
- Resolution, including Exhibit A (Proposed ADU ordinance amending the Land Development Code) and Exhibit B (Proposed ADU ordinance amending the Sedona City Code)
- Staff Report to the Planning and Zoning Commission regarding proposed ADU
- Planning and Zoning Commission minutes (12/1/09)
- Synopsis of Comments received during 2009 outreach process